

Appl. No. 09/934,634
Amdt. Dated October 28, 2003
Reply to Office action of August 8, 2003

REMARKS/ARGUMENTS

By the present amendment, claims 1-18 have been deleted and new claims 19-30 have been added rendering claims 19-30 pending in the application. The new claims find support in previous claims 1-5 as well as throughout the disclosure. The amendments to the claims have been made without prejudice and without acquiescing to any of the Examiner's objections. Applicant reserves the right to pursue any of the deleted subject matter in a further divisional, continuation or continuation-in-part application. No new matter has been entered by the present amendment and its entry is respectfully requested.

The Official Action dated August 8, 2003 has been carefully considered. It is believed that the amended claims and the following comments represent a complete response to the Examiner's rejections and place the present application in condition for allowance. Reconsideration is respectfully requested.

Election

By the present amendment, the claims have been amended in order to delete reference to any non-elected subject matter.

Information Disclosure Statement

We confirm that the references cited at the end of the specification were not intended to be submitted in an Information Disclosure Statement and therefore need not be cited on form PTO-1449.

Specification

As requested by the Examiner, Applicant has amended the title in order to be more descriptive of the invention to which the claims are directed.

The specification has also been amended in order to replace "SEQ ID NO:1" with "SEQ ID NO:22" on pages 19, 20, 21 and 24 of the specification as SEQ ID NO:22 corresponds to the murine sequence found in Figure 7. Page 1 of the specification has

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also been amended in order to update the status of parent application serial no. 09/570,367.

35 USC §112, First Paragraph

The Examiner has rejected to previous claims 1-4 under 35 USC §112, first paragraph, because the specification, while being enabling for a method of preventing, inhibiting or reducing fetal loss comprising administering an effective amount of an OX-2 protein or a fragment of an OX-2 protein which is an extracellular domain of the OX-2 protein of a fragment which possess one or more testable functional properties of the full length OX-2 protein, such as inhibition of a mixed leucocyte reaction (MLR) as disclosed on page 8; does not reasonably provide enablement for a method of preventing, inhibiting or reducing fetal loss comprising administering an effective amount of any "fragment" of an OX-2 protein. In response, Applicant has defined the OX-2 fragment in claim 25 as capable of suppressing an immune response selected from the group consisting of: inhibiting a mixed leukocyte reaction; inhibiting a cytotoxic T lymphocyte response; inhibiting interleukin-2 production; and inhibiting interferon- γ production. This amendment is supported in the application as filed, for example on page 8, lines 1-6.

In view of the foregoing, we respectfully requests that the objections to the claims under 35 USC §112, first paragraph be withdrawn.

35 USC §102 and 103

We note the Examiner's confirmation that the claims are both novel and inventive in view of Borriello et al. (J. Immunol. 158:4548-4554, May 15, 1997) and Borriello et al. (WO 97/21450).

The Commissioner is hereby authorized to charge any deficiency in fees (including any claim fees) or credit any overpayment to our Deposit Account No. 02-2095.

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In view of the foregoing, we submit that the application is in order for allowance and an early indication to that effect would be greatly appreciated. Should the Examiner like to discuss the matter, she is kindly requested to contact Micheline Gravelle at 416-957-1682 at her convenience.

Respectfully submitted,

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